

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SAMUEL TIGGS,

Plaintiff,

-against-

File No. 07-cv-07254(BSJ)(THK)

**NOTICE OF PRE-ANSWER
MOTION TO DISMISS
PURSUANT TO RULE 12(b)6**

THE CITY OF NEW YORK, DEPARTMENT
OF CORRECTION COMMISSIONER
MARTIN F. HORN, PRISON HEALTH
SERVICES, INC., MICHAEL CATALANO,
C.E.O. OF PRISON HEALTH
SERVICES, INC., DOHMH MEDICAL
DIRECTOR TREVOR PARKS, DOHMH
PROGRAM DIRECTOR REBECCA
PINNEY, DOHMH DEPUTY
COMMISSIONER JAMES CAPOZIELLO,
DOHMH DEPUTY MEDICAL DIRECTOR
BENJAMIN OKONTA, DR. FRANZ
MEDARD, PRISON HEALTH SERVICES,
INC., PHYSICIANS' ASSISTANTS,
PRISON HEALTH SERVICES. INC.,
PHARMACISTS JOHN DOE 1-5,
DEPARTMENT OF CORRECTION
EMPLOYEES, JOHN DOE 1-5

Defendants.

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PLEASE TAKE NOTICE that upon the annexed Declaration of JOHN H.
BONE, dated November 16, 2007, trial counsel for defendants THE CITY OF NEW YORK,
FRANZ MEDARD, M.D. s/h/a "DR. FRANZ MEDARD," MARTIN HORN, TREVOR
PARKS, M.D. s/h/s "DOHMH MEDICAL DIRECTOR TREVOR PARKS," JAMES
CAPOZIELLO s/h/a "DOHMH DEPUTY COMMISSIONER JAMES CAPOZIELLO,"
MICHAEL CATALANO s/h/a "MICHAEL CATALANO, C.E.O. OF PRISON HEALTH
SERVICES, INC.," BENJAMIN OKONTA, M.D. s/h/a "DOHMH DEPUTY MEDICAL
DIRECTOR BENJAMIN OKONTA" and REBECCA PINNEY s/h/a "DOHMH PROGRAM

DIRECTOR REBECCA PINNEY,” the exhibits thereto, defendants’ Memorandum of Law dated November 16, 2007, and upon all prior pleadings and proceedings heretofore had herein, defendants THE CITY OF NEW YORK, FRANZ MEDARD, M.D. s/h/a “DR. FRANZ MEDARD,” MARTIN HORN, TREVOR PARKS, M.D. s/h/s “DOHMH MEDICAL DIRECTOR TREVOR PARKS,” JAMES CAPOZIELLO s/h/a “DOHMH DEPUTY COMMISSIONER JAMES CAPOZIELLO,” MICHAEL CATALANO s/h/a “MICHAEL CATALANO, C.E.O. OF PRISON HEALTH SERVICES, INC.,” BENJAMIN OKONTA, M.D. s/h/a “DOHMH DEPUTY MEDICAL DIRECTOR BENJAMIN OKONTA” and REBECCA PINNEY s/h/a “DOHMH PROGRAM DIRECTOR REBECCA PINNEY,” by their attorneys, HEIDELL, PITTONI, MURPHY & BACH, LLP, will move this Court, before the Honorable Barbara S. Jones, United States District Court Judge at the United States Courthouse located at 500 Pearl Street - Courtroom Room 620, New York, New York for an Order dismissing the Complaint in its entirety, with prejudice, pursuant to FRCP Rule 12(b) 6.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Civil Rule 7.1(b), opposing affidavits and answering memoranda shall be served within fifteen (15) business days after service of the within moving papers, and reply affidavits and memoranda of law shall be served within seven (7) business days after service of the answering papers.

Dated: New York, New York
November 16, 2007

Yours, etc.

HEIDELL, PITTONI MURPHY & BACH, LLP

By: 

JOHN H. BONE (JB8342)

Trial Counsel for Defendants

THE CITY OF NEW YORK, FRANZ MEDARD,
M.D. s/h/a "DR. FRANZ MEDARD," MARTIN
HORN, TREVOR PARKS, M.D. s/h/s "DOHMH
MEDICAL DIRECTOR TREVOR PARKS,"
JAMES CAPOZIELLO s/h/a "DOHMH DEPUTY
COMMISSIONER JAMES CAPOZIELLO,"
MICHAEL CATALANO s/h/a "MICHAEL
CATALANO, C.E.O. OF PRISON HEALTH
SERVICES, INC.," BENJAMIN OKONTA, M.D.
s/h/a "DOHMH DEPUTY MEDICAL DIRECTOR
BENJAMIN OKONTA" and REBECCA PINNEY
s/h/a "DOHMH PROGRAM DIRECTOR
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